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Bermuda

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I. Background information

A. Geography

1. Bermuda[1] is located in the western part of the Atlantic Ocean about 917 kilometres east of Cape Hatteras on the North Carolina coast of the United States of America. It is named after the Spanish navigator, Juan de Bermúdez, who first discovered it in 1503 and mapped the islands.

2. The Territory consists of 8 major islands and 130 smaller islands[2] located at latitude 32.19 degrees north and longitude 64.46 degrees west, extending from north-east to south-west along the edge of what is assumed to be an extinct, submarine volcano. Bermuda has a coastline of 103 kilometres and a total area of 53.35 square kilometres, and its islands rise above sea level to an average height of 30 metres and a maximum elevation of 86 metres. The terrain is generally hilly, with fertile depressions and some marshy areas. The largest island is Great Island, or Main Island. It is about 22.5 kilometres long and 3.2 kilometres wide. It covers an area of about 3,650 hectares, consisting mostly of a fertile, shallow valley. Boaz, Ireland, Somerset, St. David's and St. George's are the next five major islands. Hamilton, the capital, and St. George's are the two main towns. Bermuda is the oldest, and one of the smallest, yet most populated of the remaining British Overseas Territories, and the oldest member of the British Commonwealth of Nations.[3]

B. History

3. After its discovery in 1503, no attempts were made to settle the uninhabited islands for over a century. In 1609, however, Bermuda was settled by a group of English colonists who were shipwrecked there while heading to Virginia. In 1610 the first slaves were brought to Bermuda to work on the farms and to dive for pearls. Bermuda was considered part of the Virginia charter until 1615, when it was granted a separate charter. In 1620 the first Parliament was held after the Crown granted the colony limited self-government. The economy of Bermuda was largely based on trade between the West Indies and North America in salt and other goods and grew rapidly in the eighteenth and nineteenth centuries. The population of Bermuda also continued to expand, aided in part by conscripted labour and, after the mid-nineteenth century, immigrants from Portugal. In 1968 Bermuda was granted internal self-government and a new constitution, though the Government of the United Kingdom of Great Britain and Northern Ireland nonetheless retains responsibility over some matters (see paras. 8 and 9 below). In 1995 a referendum was held on the question of independence. Of the 58.8 per cent of eligible voters who participated, which is a small number by Bermudian standards, 73.6 per cent voted against independence.

C. Population

4. According to July 2000 estimates, Bermuda's population of 60,075 at the time of the last census had grown to 62,997 inhabitants, of whom 58 per cent are of African descent and 36 per cent of North American or European descent. A high number, 15,823, or 26.7 per cent of the total, were born outside Bermuda, which has a net migration rate of 2.67 migrants per 1,000 inhabitants. The Territory remains very densely populated (1,180 inhabitants per sq km), with an estimated growth rate of .75 per cent for 2000. The age structure of the population is as follows: 20 per cent of the inhabitants are between birth and age 14, 70 per cent are between the ages of 15 and 64, and 10 per cent are over 65. Life expectancy at birth is 79 years for women and 75 for men.[4]

II. Constitutional, legal and political issues

A. General

5. Bermuda is administered by the United Kingdom of Great Britain and Northern Ireland and is its oldest remaining colony. Queen Elizabeth II is the Head of State. Governors are appointed by the Queen and the Government of the United Kingdom, after consultations with the Premier of Bermuda. In June 1997, the Queen appointed John Thorold Masefield Governor of Bermuda.

B. Constitutional structure

6. The Constitution of Bermuda, adopted in June 1968 and amended in 1973, 1979 and 1989, contains provisions relating to the protection of fundamental

rights and freedoms of the individual. It provides for the powers and duties of the Governor and the composition, powers and procedures of the legislature, the executive, the judiciary and the public service. The United Kingdom retains responsibility for defence, external affairs and internal security.

7. Bermuda has a parliamentary system of government. The Government of Bermuda comprises a Governor, a Deputy Governor, a Cabinet and a bicameral legislature with a House of Assembly of 40 directly elected members and a Senate of 11 appointed members. Five members of the Senate are appointed by the Governor, on the advice of the Premier, three on the advice of the leader of the opposition and three by the Governor at his discretion. The 40-member House of Assembly is directly elected for a maximum term of five years. The House is 379 years old and only the legislative assemblies of the United Kingdom and of Iceland are said to pre-date it.

8. The Governor is responsible for defence, external affairs, internal security and the police. He delegates some responsibilities in these areas to the territorial Government. In exercising his reserved powers, the Governor is required to consult with the Governor's Council, of which he is Chairman, and of which the Premier and two or three Cabinet ministers, nominated by the Premier, are members. The Premier, currently Jennifer Smith of the Progressive Labour Party (PLP), and her Cabinet, through the legislature, have full responsibility for the Government, except where restricted by the Governor's reserved powers. The Secretary of the Cabinet, appointed by the Governor in accordance with a recommendation by the Premier, heads the public service and also acts as Secretary to the Governor's Council.

9. As a Crown colony, Bermuda has no independent international relations at the political level. It maintains a 700-strong Defence Regiment; the male adult population is subject to military conscription, involving three years' part-time liability for weekly drills and an annual camp. It has a police force of approximately 450 full-time officers and several hundred part-time police reserves. The Regiment helps the Bermuda Police maintain law and order over the 21 square miles of territory.

10. It is estimated that the Government of Bermuda employs more than 14 per cent of Bermuda's entire working population. It has 9 appointed parish councils, 2 elected municipal corporations and 108 government boards. It also pays the salary of the Governor.

C. Legal system

11. Bermuda's law and legal system are based on English common law and principles of equity, English statute law in force since 1612 and Acts of the Bermuda Parliament passed since then. The judiciary is a separate body from the Government and its members are not elected but appointed on the advice of the Chief Justice. There are three courts presiding in Bermuda, namely, the Magistrates' Court, the Supreme Court and the Court of Appeal, which sits only at certain times of the year.[5]

D. Political parties and elections

12. There are three political parties in the Territory: the Progressive Labour Party (PLP), which was the first party to be formed in Bermuda in 1963 to gain representation and power in a white-controlled political and economic system; the United Bermuda Party (UBP), formed in 1964 by whites opposed to PLP policies; and the National Liberal Party (NLP), which seeks a middle ground. The Premier is chosen from the majority party and heads a cabinet of no more than 14 members of the legislature.

13. Bermuda voters in the general and other elections or referendums must be over 18 years of age. They are either Bermudian by birth or status, or non-Bermudian, long-term residents of Bermuda for decades who are citizens of the British Commonwealth of Nations and were registered and qualified to vote since 1979, and who have remained residents since then and have registered annually to vote. Automatic citizenship applies to all children born in Bermuda, except to those born in Bermuda without either parent being Bermudian by birth or status at the time. In November 1998, there were about 37,000 registered voters, that is, about 58 per cent of Bermuda's total current population. Until 1998, voters were required to register each year. That requirement has since been lifted.[3]

14. In the last general election in Bermuda, held on 9 November 1998, the PLP, led by Jennifer Smith, won a majority of 12 seats in the territorial legislature, defeating the UBP and taking power for the first time in the 35 years since the party system began in 1968.

The next election is due by October 2003. The PLP has traditionally been a pro-independence party, though the Premier pledged that the question of independence would not be raised in the first term of office of the PLP.

E. Political issues

15. The question of constitutional reform has dominated Bermuda politics for the past year. Several proposals to reform the Constitution were tabled in the House of Assembly just prior to the 2000 summer recess. These included proposals to: (a) equalize the size of voting constituencies, (b) replace the current two-member constituencies with single-member ones, (c) reduce the overall number of legislators, (d) permit Bermudians who have sworn allegiance to other countries to sit in Parliament, and (e) establish an ombudsman's office.

16. A significant dispute arose over the method required to change the Constitution. The ruling PLP party, which proposed the reforms, contended that since electoral and constitutional reform had always been a prominent part of its platform, its election to power was authority enough to enact the reforms, and it therefore did not need to return the proposals to the people for ratification. The opposition, on the other hand, argued that a referendum was essential prior to making such important changes as the ones proposed.

17. The United Kingdom Foreign and Commonwealth Office, which must give the final approval to any constitutional changes, has insisted that "demonstrable" consultations take place before it will consider giving its approval to the proposed changes. The Premier of Bermuda, after initially stating that a debate in the House of Assembly would be sufficient consultation with regard to redrawing electoral boundaries, has promised that a series of public meetings on the question would take place.[6] In April 2001, a team from the British Foreign and Commonwealth Office conducted a "fact-finding" mission to Bermuda with a view to determining a process that would be acceptable to both parties. The team suggested a two-stage process according to which, in the first stage, the existing Bermuda Constituency Boundaries Commission would be mandated to recommend the number and boundaries of constituencies in a report to the Governor that would then be sent to the Foreign Secretary along with the views of the House. In the second stage, the Governments of the United Kingdom and Bermuda would consider the report and decide on its implementation and on any other consequential matters, such as the size of the Cabinet and the maximum permitted number of ministers. The team considered that such an approach would be "fair and logical."[7] At the time of this writing, the dispute over procedure remains unresolved.

III. Budget

18. The PLP, in its 2001/02 budget, continued to emphasize social development as well as economic growth. The Government also remained concerned with bringing about greater equity in the distribution of the tax burden and with diversifying government revenue sources. The continued implementation of its programme to rebuild education, housing and transportation infrastructure (see A/AC.109/2000/13, para. 29) was a central feature of the 2001/02 budget. Total planned spending on the current account (excluding the capital account) was $570.8 million, which included debt service. This represents an increase of $38.5 million, or 7.2 per cent, over the previous year's budget. The increased spending, which was justified by the Government as crucial to the implementation of its social policies, increased the debt burden of Bermuda, drawing criticism from the opposition.

19. In keeping with the Government's emphasis on social welfare, the top budget allocations were for the Ministry of Health and Family Services ($124.2 million compared with $111.7 in last year's budget) and the Ministry of Education ($91.7 million compared with $85.7 million last year). The Ministry of Health and Family Services is the Government's largest provider of public goods and services, and the 11.2 per cent increase in its budget includes an additional $7.2 million for the island's hospitals, much of which is to subsidize hospital services.

20. The other budget allocations that exceed $5 million are as follows, in descending order: Ministry of Finance ($80.1 million compared with $76 million a year ago); Ministry of Labour, Home Affairs and Public Safety ($74.3 million compared with $68.8 million a year ago); Ministry of Transport ($46.8 million compared with $46.4 million a year ago); Ministry of Works and Engineering ($46.2 million

compared with $43.3 million a year ago); Ministry of Tourism ($37.6 million compared with $36.8 million last year); Ministry of Environment, Development and Opportunity ($26.9 million compared with $24.6 million last year); Ministry of Youth, Sport and Recreation ($6.6 million compared with $5.9 million last year); and Ministry of Telecommunications and E-Commerce ($5.7 million compared with $5 million last year).

21. With regard to capital expenditures, the Government said that they had been reduced to the most essential projects out of concern for fiscal responsibility. Its Capital Expenditure Programme will total $112.3 million and include improvements in educational plant, transport infrastructure and new office buildings. Investment in public education facilities amounts to $35.3 million, or just over a third of total capital expenditures.

22. Projected revenue for 2001/02 is $627.3 million, while total projected spending (current and capital account) is $683.1 million, leaving a borrowing requirement of approximately $55 million ($50 million when cash on hand is taken into account). According to the Finance Minister, the deficit had risen because of the large-scale expenditures that the Government had embarked upon and that were necessary investments in Bermuda's infrastructure.

23. The Government at the same time proposed some changes in the tax system to increase revenues. These included a review of the self-employment tax regime, an increase in the property tax for the most valuable properties, a restructuring of the cruise passenger tax (to take effect in 2002), a 5 per cent increase in fuel import duties, and an increase in alcohol and tobacco taxes. Revenue payments from 2000/01 exceeded estimates, primarily owing to higher than expected receipts from the payroll tax and fees paid by international companies.

24. In June 2000, the Government refinanced its five-year $110 million loan, adding an additional $40 million to finance its Capital Expenditure Programme. The Government's debt following the refinancing will be $143 million, which is below the $250 million borrowing limit set by Bermuda statute.

25. The balance-of-payments current account continued to exhibit surpluses. According to the Minister of Finance, since 1995 Bermuda has been exhibiting current account surpluses above 7.5 per cent of GDP. The largest contributor to this surplus is fees from international businesses, which allow Bermuda to overcome its merchandise trade deficit.

IV. Economy

A. General

26. Bermuda has no natural resources, in the conventional sense, upon which to build a viable economy. It has historically capitalized on its location and scenic beauty and has developed a renowned tourist industry, which continues to be an important component of the territorial economy. The international business industry makes an increasingly important contribution to the economy of Bermuda, bringing in large amounts of foreign currency. Other earnings are derived from shipping, investment income and, recently, e-commerce.

27. Manufacturing and agriculture exist on a limited scale and therefore contribute little to the economy of Bermuda. The local manufacturing sector includes printing, fish processing and ship repair, as well as the manufacture of paint. Agricultural activity is constrained by the small amount of land available for farming.

28. The public sector plays a large role in Bermuda's economy. Bermuda has, for example, a ratio of legislators to voters that is about 12 times higher than the global average. More than 13 per cent of the workforce is either directly or indirectly employed by the Government.

29. Bermuda's openness to the world economy and strong links with the United States economy largely determine its pattern of economic growth. Bermuda's heavy dependence on imports, overwhelmingly from the United States, and the currency's peg to the dollar, means that inflation tends to follow the United States pattern.[2]

30. Gross domestic product (GDP) in 2000 was $2.7 billion, representing 2.9 per cent growth compared to 1999. Analysts believe that the economy will continue to grow in 2001, but at a reduced rate of about 1 to 2 per cent annually; the continuing slump in the tourism sector (see paras. 32 and 33 below) constitutes a significant drag on the economy.[8] Consumer price inflation in 2000 was 2.7 per cent, which is noticeably

above the 2.4 per cent of 1999, as well as the 2.3 per cent average of the past five years. This higher inflation is attributed to a tightening housing market and rising costs of fuel; Bermuda's full employment might also be an inflationary pressure. According to the Ministry of Finance, Bermuda's labour force comprises 37,472 employees, of whom nearly 20 per cent are non-Bermudians (see paras. 56-59 below for more details on the labour force). In 1999, the Bermuda economy generated 1,701 new jobs, representing a growth rate of 4.9 per cent. Preliminary results from the most recent employment survey suggest that there were no real gains in 2000, but rather a shift in employment towards the financial services sector and away from tourism.

31. After several years of a relatively high trade balance ($260 million in 1999), reserves dropped to $172 million in 2000. This was provoked by the continuing decline in tourist revenues coupled with an 8 per cent rise in the import bill, in large part because of high oil prices.[9]

B. Economic sector

Tourism

32. Bermuda's tourism sector has continued its steady decline that began in the 1980s, and which has cost the island a third of its hotel rooms since 1989.[10] Nonetheless, tourism continues to constitute a major sector of the territorial economy and a principal source of foreign exchange, accounting for just under 50 per cent of Bermuda's overseas earnings. Measured in constant dollars per capita, tourist expenditures fell by 21.3 per cent between 1990/91 and 1998/99. The contribution made by tourism to GDP fell from 29.3 per cent in 1990/91 to 19.9 per cent in 1998/99.[11] Total arrivals in 1999 were 550,000, mirroring rates of 10 years ago (549,000). The past decade has nonetheless seen some fluctuation, between a low of 506,237 in 1992 and a high of 571,675 in 1996.[12]

33. The Government's management of the tourism sector has become a matter of political contention. In October 2000, the Minister of Tourism revised downwards the target figures he had set in May for the total number of visitors to Bermuda from around 630,000 to 600,000. He argued that this reflected Bermuda's repositioning to attract fewer visitors who paid more, and that it was a conscious attempt to avoid huge numbers of visitors that the island could not accommodate.[13] Of the predicted 600,000 arrivals in 2000, air arrivals were to account for about 350,000; the maximum number of conceivable annual air arrivals is limited to around 450,000 based on the number of accommodations available on the island.[14] The opposition claimed that the revised numbers were a way of justifying the continuing drop in arrivals, and accused the Government of insufficiently advertising the island and failing to produce a plan for the development of tourism.[15] Travel industry experts note several problems that contribute to Bermuda's lagging performance in the sector, including high prices, costly transportation, lack of direct flights from continental Europe, and a scarcity of high-end entertainment.[16]

34. The current Government argues, however, that progress in the tourism sector should not be measured only by the total number of visitors, but by other data such as occupancy rates, cumulative bed nights, and expenditures per visitor. Expenditures per visitor were up more than 10 per cent on accommodation and food in the second quarter of 2000. Occupancy rates are at a 10-year high, reaching 86 per cent in July 2000 and 80 per cent in August 2000. The Government said it would maintain its policy of restricting cruise-ship visits. Bermuda does not accept visits by mega-cruise ships, limits total yearly passenger levels to 200,000, and only allows two ships in each of Bermuda's three ports at any one time.[17] Nonetheless, arrivals by ship have increased over the past decade, from about 112,000 in 1990, when they accounted for a fifth of total visits, to 195,566 in 1999, when they accounted for over a third.

35. The Government has adopted several measures pursuant to its strategy of revitalizing the tourism sector without sacrificing Bermuda's environment and high quality of life to the effects of mass tourism. First, in 2000, Bermuda passed the Hotel Concessions Act. This legislation promotes hotel development by eliminating customs duties for hotels, providing exemptions from other taxes, and ending restrictions on hotel companies holding interest in land.[18] The legislation is designed to attract investors so as to add about 500 mostly high-end accommodations (including increasingly popular spas, of which there are three currently under construction). The 3,400 rooms available on Bermuda are at a current 20-year low, as in recent years the island has lost several of its top hotels, including the Marriott and the Club Med.[19] Second, Bermuda has joined the Caribbean Tourism

Organization, allowing the island access to the organization's network and research expertise while safeguarding a degree of marketing independence. The organization holds conferences among its members and conducts foreign trade shows to promote Caribbean destinations.[20] These measures supplement those of the Conduit Alliance, formed two years ago as an alliance between local and foreign private interests, the hotel association, workers' unions and the Chamber of Commerce, to develop a strategy for promoting the Government's tourism policy. In March 2001, the Conduit Alliance proposed a long-term plan focusing on improving the quality of the hospitality industry on the island (for example, by providing first-class training for employees) and developing a marketing strategy to target wealthy visitors.[21]

Construction

36. According to the Minister of Finance, Bermuda's construction industry showed a high level of activity, with a "value of work put in place" of $73.9 million in the first half of 2000. This high activity is driven both by the Government's Capital Expenditure Programme (see para. 21 above) and by the capital investments of hotel and hospitality companies, spurred in part by the Hotel Concessions Act and other measures to reinvigorate the tourism sector.

37. According to the Ministry of Finance, the construction industry in general remained active during the first half of 2000, continuing the rapid and consistent growth exhibited since 1996, but then slowed in the third quarter. All indications are, however, that the slowdown is temporary: the decline in part reflected completion of major projects, and there is a sizeable pipeline of large construction projects due to begin soon.[22]

C. Finance

Local financial services

38. Foreign banks are not allowed to operate in Bermuda; as a result, local banks benefit from a quasi-monopoly in handling lucrative international business operations for offshore clients. The Bank of Bermuda, founded in 1889, is ranked as the world's 684th largest bank and the Bank of Butterfield is ranked 795th. A third bank, the Bermuda Commercial Bank, founded in 1969 and the only bank that is owned by Bermudians of African ancestry, was acquired in 1993 by First Curação International Bank based in the Netherlands Antilles. There is no central bank in Bermuda. Instead, the Bermuda Monetary Authority is the regulatory authority of banks and also of the trust companies.

39. Bermuda's international financial system has come under scrutiny by the Organisation for Economic Cooperation and Development (OECD) and the Group of Seven industrialized countries (G-7) as a result of those organizations' attempt to eliminate tax havens and offshore financial centres thought to be susceptible to money-laundering. In particular, in June 2000 OECD published a list of 35 territories which it said had harmful tax practices. Bermuda was removed from the list prior to its release after promising to adopt standards for the exchange of information and transparency in tax affairs by 2005. The Financial Action Task Force (created by the G-7 in 1989 to fight money-laundering) released a report of 15 territories that were considered to be uncooperative in the fight against money-laundering; Bermuda was not on that list. As reported in the previous working paper, the Financial Stability Forum, another G-7-related group, was to review offshore centres, including Bermuda (see A/AC.109/2000/13, para. 39). In June 2000, the Forum issued a three-tiered table of 40 territories classified according to the quality of their financial regulation and supervision; Bermuda was classified in the second tier.[23] This meant that Bermuda was generally perceived by onshore supervisors as having legal infrastructures and supervisory practices and/or a level of international cooperation that was largely of a higher quality than Group III but lower than Group I. Bermuda's Minister of Finance said in response that the findings had been published (in May 2000) without allowing the countries involved to review or correct them. He said that if Bermuda's supervisory and regulatory regimes were viewed as a whole, they would be classified at the highest level.

40. In response to these international efforts to curb irregular financial practices, the chairman of the Bermuda Monetary Authority said that Bermuda would not slavishly follow recommendations of various international bodies on how to regulate its financial sector, but rather would judge them against both the need to maintain high international regulatory standards and the need to maintain conditions that allowed the sector to thrive.[24]

41. Some Bermuda analysts suggest that the island's omission from the OECD list could benefit Bermuda, as people concerned about holding money in jurisdictions susceptible to money-laundering would consider moving their holdings to more legitimate havens like Bermuda. They say that the OECD report essentially stratifies jurisdictions into those that are respectable and those that are less so, inciting businesses worried about their reputation to move towards jurisdictions designated as respectable. In addition, the possibility of OECD sanctions against jurisdictions that fail to provide adequate safeguards against money-laundering increases the incentive for legitimate businesses to leave those jurisdictions.[25]

42. During the period under review, Bermuda banks were forced to institute new procedures to comply with a change in United States tax law. In an effort to expose United States nationals who are trying to evade income taxes, the new law forces all holders of United States securities to prove their nationality or face withholding taxes as high as 30 per cent. The Bank of Butterfield and the Bank of Bermuda applied to the United States Internal Revenue Service for "qualified intermediary" status. Under this status, the non-United States customers of the banks remain confidential; without qualified intermediary status, the banks would be required to reveal the identity of all clients with income from the United States.[26] According to the Ministry of Finance, the United States Government had recognized Bermuda as having satisfactory "Know your Customer" rules, which would enable Bermuda-based financial institutions to obtain qualified intermediary status.

International financial services

43. Bermuda remains one of the world's leading offshore financial and business centres, a leading world captive insurance centre and a favoured venue for specialist companies operating as financial reinsurers covering international companies against the cost of legal awards. The international business sector continues to be the most vibrant of Bermuda's economy, as illustrated by the following findings from the Ministry of Finance's annual survey of the sector:[27]

(a) There were 11,476 international companies registered in Bermuda at the end of 1999, an increase of 538 or 4.9 per cent over the previous year;

(b) International companies spent $912.1 million in Bermuda in 1999, a 20.2 per cent increase over the $759 million spent in 1998. Of that total, $394.5 million was spent on wages and salaries in Bermuda and a further $203.5 million was paid as professional fees or bank fees to Bermudian companies, demonstrating a return to the rates of growth in the sector experienced between 1994 and 1997;

(c) There were 456 international companies with a physical presence in Bermuda, an increase of 28 per cent over 1998. They accounted for 82 per cent of total expenditures made by international companies though they represent less than 4 per cent of total registered companies;

(d) International companies paid $68.9 million in taxes, fees, duties and licences to the Government.

44. Preliminary indicators suggest that the international business sector in 2000 continued to build on its strong 1999 performance. The number of registered companies rose to 12,567, an increase of 9.5 per cent from 1999. Expenditures in the sector are estimated to have risen to $1 billion, a 12 per cent increase from 1999. Employment in the sector was down by a slight 1 per cent, ω 3,216 jobs.

45. Bermuda has recently begun to use its strong presence in international insurance and reinsurance markets to forge a lead in e-commerce. In early 1999, Bermuda enacted the Electronic Transactions Act, which was only the second one in the world after Singapore's. The Act, whose provisions were drafted in accordance with various suggested e-commerce model legislations, gave the Government the power to license certification authorities for e-commerce. Certification authorities are third parties that certify "digital signatures" which help network users authenticate the identity of a remote party to an electronic transaction. Digital signatures provide the necessary security guarantees for the transfer of confidential personal and financial information. Bermuda's active offshore financial community, characterized by high-value transactions, and its excellent telecommunications infrastructure make it a natural e-commerce leader. Bermuda's reputation for its sound regulatory, legal and fiscal environment is expected to enhance international confidence in Bermuda-based certification authorities. Bermuda will, however,

prohibit companies that provide online gambling services and pornography.[28]

46. Bermuda maintains a substantial shipping register, which ranks as the fifth largest in the world, and now outstrips tourism as a foreign-exchange earner and contributor to government revenues.

47. The 31-year-old Bermuda Stock Exchange promotes itself as a fully electronic offshore jurisdiction for listing companies. At the end of 1998 it had 251 listed securities, including 170 funds, 13 trading members and 4 listing sponsors. Total trading volume was in excess of $27 billion.[29] The Bermuda Stock Exchange is open to international and domestic brokers. According to the 2000 Investment Business Act, all securities intermediaries, investment managers, and advisers must be licensed by the Bermuda Monetary Authority. International companies wishing to become trading managers must incorporate a brokering subsidiary on the island itself. The Bermuda Stock Exchange has as a unique feature a special market (the "Mezzanine Market") for e-commerce and high-technology companies, providing an opportunity for high-growth companies to raise additional equity from selective investors before going fully public in the larger stock markets of the world. Another attraction of the Bermuda Stock Exchange is that there are no capital gains taxes in Bermuda.[30]

D. Transport and communications

48. According to professional analysts, the transport and telecommunications infrastructure is of a high standard, which reflects the high income level and requirements of the main economic activities. The Territory continues to be an attractive location for innovative international telecommunications firms.

49. A significant development in telecommunications infrastructure, given Bermuda's e-commerce ambitions (see para. 45 above), is the addition of bandwidth because of the laying of an additional undersea fibre-optic cable in 2000 linking Bermuda to the United States and Central and South America. Another fibre-optic cable linking Bermuda to Europe is currently planned.[31]

50. The Government of Bermuda banned from operating in Bermuda "call-back" telephone companies, which are not located in Bermuda and are able to offer greatly discounted international rates by bypassing local companies. The Ministry of Telecommunications took that action in December 2000 to protect the former monopolist, Cable and Wireless, and the recently created TeleBermuda international, which are both based on the island and have both invested in it.[32]

51. The Bermuda Broadcasting Company operates two commercial television stations and four radio stations. A third television channel and three radio stations are operated by the DeFontes Broadcasting Company. There are approximately 82,000 radio receivers in use and 66,000 television receivers.[33]

52. Airport services are reported to have improved considerably in recent years. There are regular and well-established services between Bermuda and the United States and to the United Kingdom. Hamilton serves as the main port in the Territory and supports container facilities, whereas port services are provided at St. George's and Ireland Island, a free port. The Minister of Finance announced in his 2001/02 budget that the Government would spend $4 million to upgrade runways, install new approach lighting, and improve the terminal building.

53. Bermuda has a network of about 225 km of paved public roads and another 400 km of private roads that can support car, lorry and tanker traffic. In 1998 there were 51,258 registered road vehicles, including 22,000 private cars. Bermudian households are limited to one passenger vehicle each, in order to limit congestion.[34] The Ministry of Works and Engineering was allocated $22.4 million from the 2001/02 budget to refurbish ferry docks and landings, and to improve the causeway and bridges.

V. Military issues

54. The armed forces of the United States and the United Kingdom shut down their installations on Bermuda in 1995 (see A/AC.109/2000/13, paras. 17-21, for more information on this subject). The economic disruptions caused by the base closings for the most part seem to have been absorbed. Yet an important residual issue is the request made by the Government of Bermuda to the United States Government requesting the latter to clean up the areas of the island that it had polluted during its military presence. This damage includes 200 container-loads of asbestos in former military buildings, residue from oil

and sewerage that was pumped into a system of caves under one of the bases, and the existence of potentially harmful metals such as mercury, lead and cadmium. All this has prevented the areas from being developed. The Government of the United Kingdom had cleaned up areas under its control before leaving Bermuda, but the Government of the United States has so far refused to do so. The United States considers, first, that it should not be responsible for the clean-up unless there is a clear and imminent damage problem, and, second, that if it adopts a more lenient policy it will be called on to carry out environmental clean-ups in many other parts of the world at immense cost. The United States also argues that it built the facilities that now belong to Bermuda at no cost to the Territory. Among those facilities is the airport, which made possible the development of Bermuda's tourist industry.

VI. Social conditions

A. General

55. Bermuda's per capita GDP is around $35,000, making it one of the highest in the world. At the same time, redressing inequalities in wealth on the island has been a priority for the current Government, which has emphasized social development and has accordingly channelled increased resources towards human service areas such as health, education, housing and social welfare (see paras. 18-25 above regarding the island's budget). A wide range of welfare work is undertaken by the Department of Health and the Department of Social Services; there are also a number of voluntary organizations to treat specific problems, an increasing number of which deal with social pathologies related to drug abuse. Almost all employees are registered under the Government's pension scheme, and since 1970 health insurance has been made available to all Bermudians.

B. Labour

56. General employment trends are discussed above (see para. 30). With near-full employment and full pension coverage for Bermudians, most labour issues concern the quality of work available and the effect of foreign workers on the Bermuda labour market, as Bermuda's thriving economy requires it to import labour. In March 2001, the Government set a six-year limit on work permits for foreign workers to ensure that more Bermudians are recruited and trained for the best jobs. This would end the current practice of continually renewing work permits for foreign workers. The provisions would not apply, however, to companies that have a proven record of hiring, training and promoting Bermudians.[35]

57. Preliminary figures for 2000 show that non-Bermudians (including non-Bermudian spouses of Bermudians) continue to make up around 24 per cent of the total number of employed. In 2000 there was a slight decline in employment (owing to the ongoing slump in the labour-intensive tourist sector) which affected non-Bermudians disproportionately, though the figures involved are negligible. The percentage decline in the number of jobs for Bermudians was .08, while the same figure for non-Bermudians was 2.1. Non-Bermudian spouses of Bermudians, however, gained 0.4 per cent.

58. International companies registered in Bermuda directly employed 3,007 people in 1999, of which 1,593 were Bermudians and 1,414 were non-Bermudians. It is estimated by the Ministry of Finance that economic activity resulting from these companies directly and indirectly supports 9,200 jobs and strongly influences a further 4,500.[36]

59. As in the past, the Government continued to be a major employer, with 11.4 per cent of the workforce employed directly in public administration (which does not comprise the entire public sector). Other important economic activities for labour include hotels, restaurants and bars (13.8 per cent), retail trade (10.1 per cent), local business activities (9.5 per cent), hotels (9 per cent), international business activities (8.6 per cent), financial intermediation (7.9 per cent), transport and communications (7.8 per cent) and construction (6.9 per cent).

C. Educational conditions

60. Education in Bermuda is compulsory for all children from 5 to 16 years of age, and is free for students in the pre-school, junior, special and secondary government schools administered by Bermuda's Ministry of Education. Bermuda considers the high level of education of its inhabitants to be a major component of its comparative advantage relative

to other offshore centres, and reflects this importance in its educational infrastructure.

61. There are 12 pre-primary schools in Bermuda, serving approximately 452 pupils, as well as 26 primary schools (5,883 pupils) and 14 general secondary schools (3,726 pupils).[37]

62. There are no degree-conferring universities, and no business or law schools in Bermuda. The Government awards a number of scholarships each year to young Bermudians accepted at leading universities in the United States, Canada or the United Kingdom. Scholarships are also awarded by local banks, principal law firms and Bermuda-based international companies, to obtain university degrees or to enter the civil service, banking, business, insurance and legal firms in the private sector. Under the Bermuda Government's National Education Guarantee Scheme, begun in 1994, no Bermudian student with university potential is denied an opportunity for further education owing to a lack of funds. The Government provides education loans for university attendance with a generous pay-back period.[38]

63. The current territorial Government has stated that enhancing Bermuda's educational opportunities has been a priority. Its 2001/02 budget contains $35.3 million in capital investments in public education facilities. A major new project is the $60 million Berkeley Institute, a state-of-the-art school that the Government says will enable Bermudians to compete locally and internationally for top jobs. In addition, the Ministry of Education was allotted $91.7 million from the current budget, representing an increase of 7 per cent over the previous year. Of that figure, $1.3 million was budgeted for hiring additional staff in the public school system at all levels. The staff increase will reduce teacher-student ratios at the primary level to 1:15, allowing primary school teachers to provide a superior education at that critical age.

D. Public health

64. The Ministry of Health and Social Services continues to be responsible for all aspects relating to public health. Medical care is provided by private practitioners and three government health clinics. Fees are charged for hospital care, and medical insurance is compulsory for all workers. A hospital levy covers the cost of services rendered by the hospitals to children under 16 years of age. Indigent persons over 65 years of age pay 20 per cent of hospital costs.

65. In the 2001/02 budget, the Ministry of Health and Family Services received the highest spending allotment, representing an 11.2 per cent rise over the previous year, well above the average 7.2 per cent increase in spending. Hospitals were allocated an additional $7.2 million, of which nearly $6 million was to be spent on in-patient and out-patient subsidies at the major hospital. The Department of Health was allocated an additional $818,000 to fund additional posts, including that of a public health nurse and two community health nurses as well as a consultant on environmental health.

66. Press reports indicate a decline in the number of cases of acquired immunodeficiency syndrome (AIDS) diagnosed in Bermuda, while sexually transmitted infections (including gonorrhoea, herpes and syphilis) have been rising rapidly. There were 16 new AIDS cases in Bermuda in 2000, the lowest number of new cases since 1985. There was a jump of 18 per cent, however, in sexually transmitted infections, as 511 cases were reported compared to 433 in 1999. There has been a total of 453 cases of AIDS in Bermuda, of which 75.9 per cent were men. Intravenous drug use accounted for three of the new cases, while sexual transmission accounted for the rest. Of the 453 AIDS cases diagnosed in Bermuda since 1982, there have been 356 deaths.[39]

E. Housing

67. Housing prices are high in Bermuda and a shortage of residential housing still exists. In contrast to the previous review period, however, residential construction was up by six units during the first three quarters of 2000.

68. The Government continued to support the Bermuda Housing Corporation, which it created to solve the housing crisis of the 1980s and to provide affordable housing to low-income families in Bermuda. The Corporation will receive in 2001/02 a non-recurring grant increase of $1.2 million to stabilize its cash flow position until it begins to receive rental income from its new additions to the rental stock. Once this income begins to be generated, the Corporation's grant will be reduced to its former level of approximately $2.5 million.

F. Immigration

69. The strength of Bermuda's economy and its consequent need for labour has made immigration a permanent feature of Bermuda's socio-economic profile. Under the 1968 Constitution, Bermuda has the authority to determine its own immigration policy. Many immigrants have stayed in Bermuda and have been granted residency status. In 1989, however, the Government placed a moratorium on the granting of Bermudian status, making it clear to new immigrants that they should have no expectations regarding their long-term status on the island.

70. In August 1980, the Bermuda Government's Minister of Labour, Home Affairs and Public Safety issued a discussion paper (or "Green Paper") on Bermuda's long-term residents. The object of the paper was to explore ways that complied with Bermuda's international human rights obligations but at the same time ensured that it did not perpetuate a system that allowed people to stay indefinitely on the island so that they might claim long-term residency or Bermudian status. The paper noted the existence of international norms regarding humane treatment of residents and nationals alike, and acknowledged that some immigrants to Bermuda had been tacitly encouraged to make Bermuda their home for an extended period, but it also affirmed the need to respect the quality of life of Bermudians. Accordingly, the Government said that it was its policy that "there should be no untrammelled rights for newcomers to these Islands to gain prescriptive rights to permanent residency in Bermuda". Currently, working resident's certificates are granted to those who have been in Bermuda for more than 20 years and have been working there full-time for more than 15 years. Bermudian status is granted only to spouses and children of Bermudians.

71. In proposing options regarding the status of current long-term residents, the Government ruled out granting Bermudian status to all long-term residents. The maximum concession on the issue that the Government would entertain would be to grant Bermudian status to those residents who had arrived prior to 1989 with an expectation that they might be eventually granted Bermudian status. The Government said that strict limits on the granting of Bermudian status should be maintained until the full impact of their presence on the island's resources is known, and until Bermuda ultimately decides its future constitutional position. The latter criterion refers to the current Government's pro-independence platform, though it has promised not to pursue independence immediately. Nonetheless, the opposition claims the linking of immigration law to constitutional status is a political manoeuvre by the Government to prevent the enfranchisement of people who might vote against independence, the option favoured by the current Government.[40]

72. It was further reported that many long-term residents from Portugal were leaving Bermuda; though they had been on the island for several decades, they were still not permitted to buy a house or open a business. Newspaper reports also said they had been subjected to abuse during public meetings the Government had organized to discuss its Green Paper (see para. 70 above).[41]

73. In the meantime, as reported above (see para. 56), the Government has set a partial requirement for businesses to grant only six-year, non-renewable work permits to foreign workers. Though this measure was described as an attempt to improve the quality of employment for Bermudians, it is likely to impact the immigration debate by effectively preventing any further long-term residencies.

G. Human rights and related issues

74. Bermuda is covered by the following human rights conventions, pursuant to their accession by the United Kingdom:

(a) Convention on the Prevention and Punishment of the Crime of Genocide, acceded to by the United Kingdom on 30 January 1970;

(b) International Covenant on Economic, Social and Cultural Rights, signed and ratified by the United Kingdom on 16 September 1968 and 20 May 1976, respectively;

(c) International Covenant on Civil and Political Rights, signed and ratified by the United Kingdom on 16 September 1968 and 20 May 1976, respectively;

(d) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed and ratified by the United Kingdom on 15 March 1985 and 8 December 1988, respectively; Bermuda was included on 9 December 1992;

(e) Convention on the Rights of the Child, signed and ratified by the United Kingdom on 19 April 1990 and 16 December 1991, respectively;

(f) International Convention on the Elimination of All Forms of Racial Discrimination, signed and ratified by the United Kingdom on 11 October 1966 and 7 March 1969, respectively; it covers Territories under the territorial sovereignty of the United Kingdom;

(g) Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, signed by the United Kingdom on 31 March 1999.

75. As reported in the previous review (see A/AC.109/2000/13, para. 66), a Commission for Unity and Racial Equality was established in 1995 for the purpose of ending all racial discrimination in the Territory, particularly to the extent it was exhibited in businesses. The Commission had established voluntary guidelines for companies to follow in order to eliminate racial and gender discrimination.

76. In July 2000, the Bermuda legislature passed a law requiring every company with more than 10 employees to present detailed information on its racial make-up, including information on hirings, firings and promotions. The measure was opposed by the Bermuda Employers Council, which thought the provision should apply only to those companies where there was a clear racial imbalance. The Council also expressed doubts as to whether the information generated by the new requirement would have any effect on improving race relations.[42] Surveys have shown that many among the black population in Bermuda believe they suffer racial discrimination in the workplace, particularly in the international business sector, which is dominated by mainly white overseas workers. The regulations are a central part of the social policies of the current Government, which is overwhelmingly supported by Bermuda's black population.[43]

77. Bermuda signed the United Nations Convention on the Rights of the Child in 1994, and in 1999 a National Committee was established to develop a national action plan for children which would help in implementing all provisions of the Convention. The plan will also take into account the Government's responses to questions from the British Foreign Office about Bermuda's compliance with the Convention. The report noted a continuing problem with child abuse in Bermuda as well as some adolescent drug use, though at rates lower than in, for example, Canada and the United States.[44]

H. Crime

78. Crime has been declining steadily over the past several years. Between 1994 and 2000 crime dropped by 51 per cent. In 2000 there was an overall drop of 23 per cent. According to the Bermuda Police Commissioner, this development is a result of a more proactive police role. In order to continue these positive results, police are soon to receive additional training in the United Kingdom and Canada, in particular to enhance their abilities to deal with "major situations" such as riots and to improve their investigative methods.

79. By category the drop translates as follows: there has been a 12.2 per cent drop in major crime since 1999. In 2000, there were 40 sex assaults, two of which were on tourists. Handbag theft was down 34.2 per cent; burglary was down 12.2 per cent (from 1,035 to 908); and vehicle theft was down 30.2 per cent from 1999 (from 1,442 to 993). There were only 908 incidents of breaking and entering in 2000, as compared to 1,861 in 1994.

80. Against this general drop in crime, police noted an upsurge of gang-related activities in July and August of 2000, which they believe are related to drug feuds. In a high-profile crackdown, police made 19 arrests to prevent an outbreak of gang violence.[45] According to press reports, there are few statistics on the extent to which Bermuda has been affected by the drug problem. The National Drug Commission hopes that the soon-to-be released figures from a 1999 survey will provide a clearer picture. The Governor has called for a new look at legalizing cannabis, but the Commission has pronounced itself against its legalization and a full debate is expected on the issue. Heroin and cocaine use is also on the rise and there has been a marked rise in drug-related violent crime, owing to a diminished supply on the streets. Concern is also mounting over the health risks associated with the party drug "ecstasy", which, according to an unofficial report, is being used widely across the island, and the Commission is launching a prevention programme against its use.

81. The 2001/02 budget contains provisions to increase the effectiveness of policing and reduce the incidence of crime. In particular, police services in the eastern parishes of the island will be enhanced by a $1 million investment in plant and equipment, and $451,000 for operations. The main city, Hamilton, will also receive a new Magistrates Court and police station, for which $6.3 million was allocated. New funding of $395,000 was also allocated for financing an increase in the number of Reserve Police Officers. Additional funding was provided to the Prisons Service, including $700,000 for new staff (12 Prison Officers and 4 Case Workers), and $384,000 for rehabilitation programmes within the prisons and follow-up activities upon release. The Government also launched its Alternatives to Incarceration programme with a budget allocation of $2.2 million. The goal of the programme is to reduce the number of people sentenced to prison by providing judges with effective alternatives that include drug rehabilitation programmes, counselling services, and other support programmes designed to provide "restorative justice".

VII. Environment

82. The Government allocated $1.5 million of its 2001/02 budget to the preservation and enhancement of open spaces in Bermuda. This is accomplished through a fund set up by the Acquisition of Open Land Act, whose purpose is to buy virgin land in order to insulate it from development.

83. The presence of asbestos continues to pose an important environmental problem for Bermuda (see A/AC.109/2000/13, para. 81). According to the Government's asbestos removal policy, owners of commercial buildings are charged $6,000 per 20-foot container-load of asbestos collected from their buildings by the Department of Works and Engineering. There is a further problem of how to dispose of the asbestos once it has been collected. There are currently 390 container-loads of commercial asbestos that have been collected and stored, as well as approximately 200 loads still to be collected from former United States military installations once the dispute over who should pay for this collection is resolved (see para. 54 above). The loads of asbestos remain in storage on the island near Castle Harbour, potentially risking the health of nearby residents. The asbestos cannot be buried, however, and if the Government dumps it out at sea, as it is legally authorized to do, the environmental group Greenpeace says it will "blacken" Bermuda's international reputation.

VIII. Relations with international organizations/arrangements

84. Bermuda has observer status in the Caribbean Community (CARICOM) and participates in Interpol. It is also a member of the International Olympic Committee and the International Confederation of Free Trade Unions.

IX. Future political status of the Territory

A. Position of the administering Power

85. In addressing the Fourth Committee of the General Assembly on 26 September 2000, the representative of the United Kingdom said that over the past year further progress had been made towards the modernization and development of the relationship between the United Kingdom and its Overseas Territories. The inaugural meeting of the Overseas Territories Consultative Committee had taken place in 1999, and the second meeting was to be held in London on 3 and 4 October 2000. The meeting provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and the United Kingdom Government concerning the management of public affairs and the future development of the Overseas Territories. The representative said that her Government provided support to Territories afflicted by disaster, and offered a wide range of development assistance to those Territories which needed it. At the same time, in the spirit of partnership, it continued to promote sustainable development under strategic country programmes. She said that for her Government the wishes of the peoples concerned, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance. The relationship continued to be based on the principles of self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible, and a firm

commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. She said her Government welcomed the efforts made by the Special Committee on decolonization to pursue informal dialogue with the administering Powers in order to ascertain the wishes of the peoples of the Territories with a view to the possible removal of those Territories from the Special Committee's list (see A/C.4/55/SR.4, paras. 1-4).

86. According to the Foreign and Commonwealth Office,[46] on 6 December 2000, Baroness Scotland, Under-Secretary of State for Foreign and Commonwealth Affairs, reaffirmed that the Government of the United Kingdom remained committed to introducing legislation as soon as possible to ensure that the United Kingdom's offer of citizenship, as outlined in the White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories" (see A/AC.109/1999/1 and Corr.1, annex), was delivered. She also said that her Government had initiated a consultation process with the Overseas Territories on issues relating to the legislation and its implementation. The process put her Government in a prime position to act as soon as the bill became law.

B. Position of the territorial Government

87. The election of the PLP in November 1998 had implications for the Territory's future political status. The PLP, though never previously elected, was the party that favoured independence for Bermuda. The Premier, Jennifer Smith, has however stated that independence will not be a priority for her Government in its first term. Rather, she will concentrate on introducing legislation required for the implementation of her Government's social programme as a priority. The question of independence, she said, would not be addressed in her first term, and perhaps not in her second.[47]

88. For information on previous moves towards independence, and in particular the 1995 referendum on independence, see A/AC.109/2000/13, paras. 93-96.

C. Consideration by the United Nations

89. On 8 December 2000, the General Assembly adopted without a vote resolution 55/144 B, section III of which concerns Bermuda.

Notes

[1] The information contained in the present working paper has been derived from published information.

[2] The Economist Intelligence Unit, Country Profile — Bermuda 2000/2001.

[3] http://www.bermuda-online.org.

[4] Central Intelligence Agency, *The World Factbook* (www.odci.gov/cia/publications/factbook/index.html).

[5] British Overseas Territory White Paper, Appendix One.

[6] Latin American Newsletters, 5 December 2000.

[7] *The Bermuda Sun*, 9 April 2001.

[8] The Economist Intelligence Unit, 5 January 2001.

[9] The Economist Intelligence Unit, 26 March 2001.

[10] *The Royal Gazette*, 26 March 2001.

[11] Bermuda 1999 Economic Review, Ministry of Finance, Government of Bermuda.

[12] *Leisure Travel News*, 28 August 2000.

[13] *The Royal Gazette*, 7 October 2000.

[14] *Leisure Travel News*, 16 October 2000.

[15] *The Royal Gazette*, 13 October 2000.

[16] *The Royal Gazette*, 7 October 2000.

[17] *Leisure Travel News*, 16 October 2000.

[18] *Travel Agent*, 11 December 2000.

[19] *Leisure Travel News*, 16 October 2000.

[20] *Leisure Travel News*, 28 August 2000.

[21] *The Royal Gazette*, 23 March 2001.

[22] Bermuda 2000 Economic Review, Ministry of Finance, Government of Bermuda.

[23] Agence France-Presse, 26 June 2000.

[24] *The Royal Gazette*, 7 February 2001.

[25] *The Royal Gazette*, 9 October 2000.

[26] *The Royal Gazette*, 16 October 2000.

[27] Bermuda 2000 Economic Review, Ministry of Finance, Government of Bermuda.

[28] *The Bermuda Sun*, 10 May 2000 and Knight Ridder, 28 January 2000.

[29] *The Island Sun*, 25 December 1999.

[30] www.bsx.bm.

[31] Bermuda 2000 Economic Review, Ministry of Finance, Government of Bermuda.

[32] *The Royal Gazette*, 30 December 2000.

[33] *The Europa World Year Book 2000*, 41st edition, vol. II, "United Kingdom Overseas Territories: Bermuda".

[34] Ibid.

[35] Reuters, 6 March 2001.

[36] Bermuda 2000 Economic Review, Ministry of Finance, Government of Bermuda.

[37] *The Europa World Year Book 2000*, 41st edition, vol. II, "United Kingdom Overseas Territories: Bermuda".

[38] *The Royal Gazette*, 16 December 1999.

[39] *The Royal Gazette*, 13 March 2001.

[40] *The Royal Gazette*, 17 October 2000.

[41] *The Royal Gazette*, 29 January 2001.

[42] *The Royal Gazette*, 18 October 2001.

[43] Reuters, 19 July 2000.

[44] *The Royal Gazette*, 9 March 2001.

[45] Reuters, 9 August 2000.

[46] http://www.fco.gov.uk/news.

[47] The Economist Intelligence Unit, 6 April 2001.